

## SENATE BILL NO. 448

INTRODUCED BY J. KEANE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING SOLEMNIZATION OF MARRIAGE; ALLOWING A COUNTY COMMISSIONER TO SOLEMNIZE A MARRIAGE; ~~ALLOWING IMPOSITION OF A FEE FOR THE SERVICE AND REQUIRING THAT A PORTION OF THE REVENUE BE USED FOR COURT SECURITY;~~ AND AMENDING SECTION 40-1-301, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 40-1-301, MCA, is amended to read:

**"40-1-301. Solemnization and registration.** (1) A marriage may be solemnized by a judge of a court of record, by a public official whose powers include solemnization of marriages, by a county commissioner, mayor, city judge, or justice of the peace, by a tribal judge, or in accordance with any mode of solemnization recognized by any religious denomination, Indian nation or tribe, or native group. Either the person solemnizing the marriage or, if no individual acting alone solemnized the marriage, a party to the marriage shall complete the marriage certificate form and forward it to the clerk of the district court.

(2) If a party to a marriage is unable to be present at the solemnization, the party may authorize in writing a third person to act as proxy. If the person solemnizing the marriage is satisfied that the absent party is unable to be present and has consented to the marriage, the person may solemnize the marriage by proxy. If the person solemnizing the marriage is not satisfied, the parties may petition the district court for an order permitting the marriage to be solemnized by proxy.

(3) The solemnization of the marriage is not invalidated by the fact that the person solemnizing the marriage was not legally qualified to solemnize it if either party to the marriage believed that person to be qualified.

(4) One party to a proxy marriage must be a member of the armed forces of the United States on federal active duty or a resident of Montana at the time of application for a license and certificate pursuant to 40-1-202. One party or a legal representative shall appear before the clerk of court and pay the marriage license fee. For the purposes of this subsection, residency must be determined in accordance with 1-1-215.

~~(5) (a) A judge of a court of record, a public official whose powers include solemnization of marriage, a~~

1 ~~county commissioner, mayor, city judge, or justice of the peace who solemnizes a marriage may impose a fee~~  
2 ~~for solemnization.~~

3 ~~—— (b) If a fee is imposed, 50% of the revenue must be forwarded to the appropriate local governmental~~  
4 ~~entity to be used in enhancing court security and 50% may be retained by the person solemnizing the marriage."~~

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